

Notice of Allowability

Application No.

09/843,614

Examiner

Greg Bengzon

Applicant(s)

GEBHARDT ET AL.

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 04/04/2006.
2. ☒ The allowed claim(s) is/are 1-41 based upon the BPAI decision rendered 10/30/2006.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


WILLIAM VAUGHN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continued Examination Under 37 CFR 1.114

The prosecution for this application is being re-opened after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action.

Allowable Subject Matter

Claims 1-41 are allowed.

The following is an examiner's statement of reasons for allowance:

The provision for — *a computer implemented method of updating an interactive application broadcast from a broadcast system to a reception device over a transmission medium, the method comprising:*

receiving at the broadcast system a broadcast signal including at least one record of a first interactive application;

selecting a second interactive application, and broadcasting records of the second interactive application to the reception device in place of at least some of the records of the first interactive application, for execution of the second interactive application by the reception device;

receiving at the broadcast system in the broadcast signal one or more additional records of the first interactive application; and

broadcasting from the broadcast system selected ones of the additional records to the reception device, for execution of the second interactive application in conjunction with the additional records

--- wherein all the features previously described are combined in one singular embodiment, is not fairly taught or suggested by the prior art of record.

The Examiner finds particular novelty in the broadcast system capabilities as described in the Applicant Specification (Figures 1, 3, 7, and 13; Page 14, Lines 28-30; Page 20 Line 17 to Page 21, Line 13; Page 22, Line 7 to Page 23, Line 15; Page 48, table 10; Page 49, Table 1; Page 50, table 12; Page 35, Line 4 to Page 37; Page 54, Line 28 to Page 29, Line 17; Page 60, Line 12 to Page 63, Line 8) wherein the said broadcast system is able to selecting a second interactive application, and broadcast records of the second interactive application to the reception device in place of at least some of the records of the first interactive application, for execution of the second interactive application by the reception device; and further receiving at the broadcast system in the broadcast signal one or more additional records of the first interactive application; and broadcasting from the broadcast system selected ones of the additional records to the reception device, for execution of the second interactive application in conjunction with the additional records.

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Howe disclosed switching between television programs, such as to an interactive program session from another program. However Howe did not disclose *receiving at the broadcast system in the broadcast signal one or more additional records of the first interactive application; and broadcasting from the broadcast system selected ones of the additional records to the reception device, for execution of the second interactive application in conjunction with the additional records.*

Based on the recommendation of the BPAI, the Examiner concludes that in Howe the ICA itself is not an interactive application but a trigger sensed by the set top box to signal it to generate the interactive button. Howe only teaches transitioning between an analog based television program to a second program, particularly an interactive program, and only in response to a set top box user's action. The ICA or icon of Howe is not an interactive application.

Filepp disclosed retrieving records concerning interactive applications made up of objects that include data and program instructions required for generating the application at the reception system. However Filepp did not disclose *receiving at the broadcast system in the broadcast signal one or more additional records of the first interactive application; and broadcasting from the broadcast system selected ones of the additional records to the reception device, for execution of the second interactive application in conjunction with the additional records.*

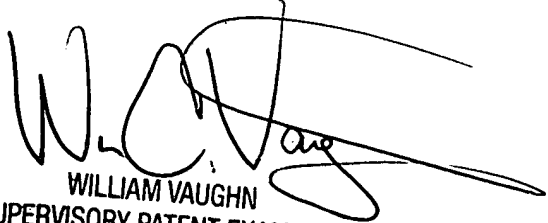
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


WILLIAM VAUGHN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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